

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Civ. No. 13-00566
)	
v.)	
)	
ROBERT G. MALONE, DEBRA P. MALONE,)	COMPLAINT
and DAKOTA COUNTY, MINNESOTA)	
)	
Defendants.)	
)	

Plaintiff the United States of America alleges as follows:

1. This is a civil action brought by the United States of America to reduce to judgment certain unpaid federal income tax assessments made against Defendant Robert G. Malone and to foreclose federal tax liens upon certain property described in this Complaint.

2. This action has been requested and authorized by a delegate of the Secretary of the Treasury and is brought at the direction of the Attorney General pursuant to 26 U.S.C. §§ 7401 and 7403.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402 and 7403.

4. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and 1396 because this is the district where the real property sought to be foreclosed upon is located and where the primary defendant resides.

PARTIES

5. Defendant Robert G. Malone, whose federal income tax liabilities are the subject of this action, resides in St. Paul, Minnesota, within this judicial district.

6. Defendant Debra Malone is Robert Malone's wife. Under 26 U.S.C. § 7403(b), Debra is named as a defendant because she may claim an interest in the real property at issue in this action.

7. Defendant Dakota County, Minnesota, is named as a defendant under 26 U.S.C. § 7403(b) because it may claim an interest in the real property at issue in this action.

8. The United States seeks to foreclose its federal tax liens on real property (the Property) located at 1439 Cherry Hill Road, Mendota Heights, Minnesota, 55118, within this judicial district and more particularly described as:

Lot Eight (8) in Block Four (4) of Cherry Hill Addition, according to the recorded plat thereof, and situate in Dakota County, Minnesota.

9. The Property was conveyed to Robert Malone and Debra Malone as joint tenants by a warranty deed on May 27, 1992.

10. Defendant Dakota County, Minnesota, may claim an interest in the Property

due to unpaid county real estate taxes in the amount of \$14,131.33.

**COUNT I: REDUCE ASSESSMENTS TO JUDGMENT
AGAINST ROBERT MALONE
26 U.S.C. § 7402(a)**

11. The United States re-alleges and incorporates by reference the allegations in paragraphs 1-10.

12. Robert Malone's federal income tax liabilities were self-reported on filed federal income tax returns.

13. Based on the filed returns, and on the dates and for the years indicated below, the Internal Revenue Service made assessments against Robert Malone for federal income taxes, interest, and penalties according to law.

The amounts due are as follows:

Year	Assessment Date	Total Assessed	Balance Due as of March 7, 2013
2006	11/05/2007	\$49,913.62	\$62,691.04
2007	11/03/2008	\$70,587.24	\$83,307.70
2008	11/16/2009	\$8,911.36	\$10,985.32
		Total	\$156,984.06

14. Notices of the above assessments and demands for payment thereof were sent to Robert Malone by the Internal Revenue Service in accordance with law.

15. Despite notices and demands for payment of the above assessments,

Robert Malone has neglected or refused to pay over the amounts owed by him. There remains due and owing to the United States the sum of \$156,984.06, plus statutory interest and additions accruing after March 7, 2013.

WHEREFORE, the United States requests entry of judgment in its favor on Count I as follows:

- (a) that the Court enter judgment in favor of the United States and against Robert G. Malone in the amount of \$156,984.06, plus statutory interest, penalties, and additions accruing after March 7, 2013, until the judgment is paid; and
- (b) that the Court award to the United States its costs and such other and further relief as the Court deems just and proper.

COUNT II: FORECLOSE FEDERAL TAX LIENS
26 U.S.C. § 7403

16. The United States re-alleges and incorporates by reference the allegations in paragraphs 1-15.

17. Based on the assessments described above, and pursuant to 26 U.S.C. §§ 6321 and 6322, federal tax liens arose as of the dates of the assessments in the amounts of the assessments plus all additions accruing thereon under law, and the tax liens attached to all property and rights to property Robert Malone then owned or thereafter acquired.

18. Notices of these federal tax liens were filed with the Office of the County

Recorder, Dakota County, Minnesota, in October 2011.

WHEREFORE, the United States requests entry of judgment in its favor on Count II as follows:

(a) that the Court enter a judgment declaring that the United States has valid and subsisting federal tax liens for the liabilities described herein against all property and rights to property of Robert Malone;

(b) that the Court enter a judgment ordering that the federal tax liens attaching to the Property be foreclosed, that the Property be sold, that those persons occupying the Property leave and vacate the Property, and that the Court determine the rights of the parties to the proceeds of sale and the relative priorities of the parties' claims to the sale proceeds, and disburse those proceeds accordingly; and

(c) that the Court grant the United States its costs incurred in the commencement and prosecution of this action and such other and further relief as the Court deems proper and just.

Dated: March 12, 2013

Respectfully submitted,

B. TODD JONES
United States Attorney

/s/ Erin Lindgren
ERIN LINDGREN
Minn. Bar No. 0392617
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 7238
Washington, D.C. 20044
Telephone: (202) 353-0013
Fax: (202) 514-6770
Erin.Lindgren@usdoj.gov